

Appln. No.: 10/593,540
Case No.: BY0042P
Page No.: 10

REMARKS

Entry of this amendment, reconsideration of the application and allowance thereof are respectfully requested. The Examiner rejected the application under 35 USC 112 and made the rejection final. Entry of the amendment after final rejection is appropriate and is respectfully requested.

The amendment cancels six claims without adding any claims, thus reducing issues for possible appeal. Moreover, the amended language does not raise any new issues. It simply places language from original claim 2 into original claim 1 and makes claim 9 independent. As such, no new issues will be raised. Lastly, by adopting the Examiner's proposed language, it places the case in condition for allowance.

This amendment cancels claims 2, 5, 7, 14, 15 and 16 without prejudice, and amends claims 1 and 9. Upon entry of this amendment, claims before the Examiner will be claims 1, 3, 4, 8, 9 and 14.

Claims 1, 5, 7, 14, 15 and 16 were rejected. Claims 2, 3, 4, 6, 8 and 9 were objected to.

The amendment of claim 1 places it in compliance with the Examiner's comments vis a vis claim 2, which the Examiner indicated to be allowable if rewritten in independent form. This has been accomplished by amending claim 1 and cancelling claim 2.

Similarly, claim 9 was amended to place it in independent form.

The composition and method claims have been cancelled to expedite prosecution with the understanding that one or more divisional applications may be filed to continue prosecution of this subject matter.

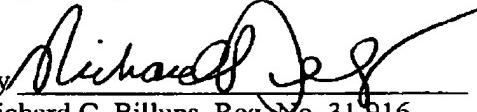
By cancelling claims 15-16, the rejection of these claims is rendered moot.

Appln. No.: 10/593,540
Case No.: BY0042P
Page No.: 11

Applicants have retained the pharmaceutical composition claim, which is dependent from claim 1 as amended.

In summary, Applicants urge that the captioned patent application is in condition for allowance. Consequently, such action is respectfully requested.

Respectfully submitted,

By 
Richard C. Billups, Reg. No. 31,916
Attorney for Applicants

Merck & Co., Inc.
P.O. Box 2000
Rahway, NJ 07065-0907
(732) 594-4683

Date: January 13, 2009